

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

WEDNESDAY, THE SIXTH DAY OF JULY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE S.ANANDA REDDY

WRIT PETITION NO : 15351 of 2005

Between:

United India Insurance Company Limited,
Rep. By its Branch Manager, R/o.15-2-19,
Opp.Krishna Kalamandir, Rangampet.

..... PETITIONER

AND

1. The Government of Andhra Pradesh,
rep. By its Secretary, Transport Authority,
Secretariat Buildings, Hyderabad.
2. The Additional Road Transport Authority,
Warangal, Warangal District.
3. The Superintendent,
Mahatma Gandhi Memorial Hospital,
Warangal, Andhra Pradesh.
4. Matteda Ramesh, S/o.Laxmaiah,
aged 28 years, occ: Mason, R/o.16-3-416,
Sakarasikunta, Orsu, Warangal.
5. Naskari Mallaiah, S/o.Yakaiah,
aged 30 years, Driver-cum-Owner of Auto,
r/o.Panthini Village, Wardhannapet Mandal,

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ, order or direction more particularly one in the nature of writ of Mandamus or any other appropriate writ declaring the award dated 14.6.2004 in O.P.No.1493 of 2002 on the file of the Chairman, Motor Accidents Claims Tribunal (I Additional District Judge), Warangal, as null and void, violation of principles of natural justice, opposed to law, amounting to fraud of high degree apart from cannons of justice and pass such other or further order as this Hon'ble Court may deem fit and proper in the circumstances of the case.

Counsel for the Petitioner: MRS. A.MALATHI

Counsel for the Respondents: GP FOR TRANSPORT

The Court made the following :

ORDER:

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This writ petition is filed by the petitioner against the award passed by the Motor Accidents Claims Tribunal, alleging that certain fraud has been played, therefore, the writ petition is maintainable and relied upon the judgment of the Apex Court in **S.P.CHENGALVARAYA NAIDU v. JAGANNATH**. That is a case where against the partition decree, the appeal was filed and the appeal was allowed and that was not the judgment rendered in a writ petition to support the case of the petitioner. Similarly, the petitioner also relied upon the decision of the Apex Court in **UNITED INDIA INSURANCE CO. LTD. v. RAJENDRA SINGH**. That was also a case of appeal filed against the award passed by the Claims Tribunal and not a case of a writ petition.

At the time of hearing when the counsel for the petitioner was asked as to why the petitioner did not avail the remedy of appeal provided under the Motor Vehicles Act, 1988 (for short 'the Act'), the objection or obstruction for the petitioner to file an appeal as stated by the learned counsel is that the petitioner has to seek leave of the Court as required under Section 170 of the Act, though the said provision did not specify or speak for such leave, but, however, the learned counsel stated that it was the view expressed by the office. No specific judgment is placed before this Court.

In any case even if permission is required for the petitioner to file an appeal against the award passed by the Motor Accidents Claims Tribunal against the owner

as well as against the Insurance Company where fraud is alleged to have been played, the petitioner can seek leave bringing to the notice of this Court the fraud alleged to have been played and this Court think that the Court would decline to grant permission if what has been stated by the petitioner is true.

The remedy of appeal as provided under the statute of the Act is an effective remedy under which only this Court has to exercise the appellate jurisdiction and to consider all the facts that are being brought at the time of hearing and therefore, there is absolutely no justification for the petitioner to resort to the writ jurisdiction leaving the statutory appeal provided under the Act.

The writ petition is therefore, not maintainable and the objection raised by the office is accordingly upheld. The writ petition is accordingly dismissed. No costs.

06.07.2005

vs

To

1. The Government of Andhra Pradesh,
rep. By its Secretary, Transport Authority,
Secretariat Buildings, Hyderabad.
2. The Additional Road Transport Authority,
Warangal, Warangal District.
3. The Superintendent,

Mahatma Gandhi Memorial Hospital,

Warangal, Andhra Pradesh.

4. Two CCs to the G.P for Transport, High Court of A.P.,

Hyderabad(O.U.T).

5. Two CD copies.